

\*\*E-Filed 9/22/2011\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

DONG THANH VO,

Plaintiff,

v.

SUPERIOR COURT OF CALIFORNIA, SANTA  
CLARA COUNTY,

Defendant.

Case Number 5:10-cv-04228-JF (HRL)

ORDER DENYING PLAINTIFF'S  
MOTIONS TO PROCEED IN FORMA  
PAUPERIS AND FOR  
APPOINTMENT OF COUNSEL

[re: dkt entries 2, 8 ]

Plaintiff requests leave to proceed in this action *in forma pauperis* and moves for an appointment of counsel.

Pursuant to 28 U.S.C. § 1915, a district court may authorize the commencement of a civil action *in forma pauperis* if the court is satisfied that the would-be plaintiff cannot pay the filing fees necessary to pursue the action. 28 U.S.C. § 1915(a)(1). The court may deny *in forma pauperis* status, however, if it appears from the face of the proposed complaint that the action is frivolous or without merit. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990); *Tripati v. First National Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987).

In exceptional circumstances, the Court has discretion to request counsel to provide *pro bono* representation to a plaintiff proceeding *in forma pauperis*. See *Terrell v. Brewer*, 935 F.2d

1 1015, 1017 (9th Cir. 1991). A finding of exceptional circumstances requires an evaluation of (1)  
2 the likelihood that the plaintiff's claims will succeed on the merits and (2) the ability of the  
3 plaintiff to articulate [his her] claims *pro se* in light of the complexity of the legal issues  
4 involved. *See id.*

5 As presently drafted, the complaint appears to be without merit in that it fails to set forth  
6 a cognizable claim. Accordingly, Plaintiff's request for leave to proceed *in forma pauperis* and  
7 motion for appointment of counsel are DENIED.

8 IT IS SO ORDERED.

9  
10 DATED: 9/22/2011

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JEREMY FOGEL  
United States District Judge

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17 Defendant.

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CERTIFICATE OF SERVICE

18  
19 I, the undersigned, hereby certify that I am an employee of the Office of the Clerk, United States District Court, Northern District of California.

20 On Thursday, September 22, 2011, I served a true and correct copy of the attached  
21 document on each of the persons hereinafter listed by placing said copy in a postage paid  
22 envelope and depositing said envelope in the United States mail, or by placing said envelope in the outgoing mail delivery receptacle located in the Clerk's Office:

23 Dong Thanh Vo  
24 Post Office Box 24  
San Jose, CA 95103

25 DATED: 9/22/11

For the Court  
Richard W. Weiking, Clerk

26 By: \_\_\_\_\_/s/  
27 Snooki Puli  
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